

**MINUTES  
of the  
FIRST MEETING  
of the  
NEW MEXICO FINANCE AUTHORITY OVERSIGHT COMMITTEE**

**June 2, 2011  
Room 307, State Capitol  
Santa Fe, New Mexico**

The first meeting of the New Mexico finance authority (NMFA) oversight committee was called to order by Representative Patricia A. Lundstrom, chair, on June 2, 2011 at 9:36 a.m. in room 307 of the state capitol in Santa Fe, New Mexico.

**Present**

Rep. Patricia A. Lundstrom, Chair  
Sen. Mary Kay Papen, Vice Chair  
Rep. Alonzo Baldonado  
Sen. Sue Wilson Beffort  
Sen. Tim Eichenberg  
Rep. Candy Spence Ezzell  
Sen. Clinton D. Harden, Jr.  
Rep. Dona G. Irwin  
Rep. Jane E. Powdrell-Culbert  
Rep. Debbie A. Rodella  
Sen. Nancy Rodriguez  
Rep. Henry Kiki Saavedra  
Rep. James R.J. Strickler  
Rep. James P. White

**Advisory Members**

Sen. William F. Burt  
Rep. Ernest H. Chavez  
Rep. Anna M. Crook  
Sen. Mary Jane M. Garcia  
Rep. Thomas A. Garcia  
Rep. Rick Little  
Sen. Lynda M. Lovejoy  
Rep. Ben Lujan  
Rep. W. Ken Martinez  
Rep. Andy Nuñez  
Rep. Edward C. Sandoval

**Absent**

Sen. Kent L. Cravens  
Sen. Stephen H. Fischmann  
Rep. Roberto "Bobby" J. Gonzales  
Rep. Yvette Herrell  
Sen. Howie C. Morales  
Sen. David Ulibarri  
Rep. Richard D. Vigil

Rep. David L. Doyle  
Rep. Mary Helen Garcia  
Sen. Eric G. Griego  
Sen. Richard C. Martinez  
Sen. George K. Munoz  
Sen. Steven P. Neville  
Sen. William H. Payne  
Rep. Sheryl Williams Stapleton  
Rep. Thomas C. Taylor

**Staff**

Doris Faust, Legislative Council Service (LCS)  
Tom Pollard, LCS  
Claudia Armijo, LCS

**Guests**

The guest list is in the meeting file.

**Handouts**

Handouts and other written testimony are in the meeting file and posted on the New Mexico legislature web site.

**Tuesday, June 2****Welcome**

Representative Lundstrom welcomed committee members and guests. She advised the members that the meeting was streaming live on a webcast, and she asked them to turn their microphones on and off before and after speaking. Additionally, she asked them to keep side conversations to a minimum. She then asked the members to introduce themselves, which they did, and Speaker Lujan welcomed the members and guests, as did Senator Garcia.

**NMFA Board Mission and Goals**

Members of the NMFA board of directors in attendance introduced themselves, beginning with William Fulginiti, executive director of the New Mexico municipal league and NMFA acting chair. Next, Paul Gutierrez, executive director of the New Mexico association of counties, and David Martin, secretary of environment, introduced themselves to the committee and audience.

Mr. Fulginiti started the discussion by reminding the members that the NMFA began its work in 1992 and was the product of two pieces of legislation. He further noted that he is the only remaining original NMFA board member. He advised the committee that some NMFA board members, like him, serve on the board statutorily, while others are appointed. Mr. Fulginiti reminded members that when the first NMFA meeting convened, the NMFA had no money and no direction. As time progressed, the board began to set the foundation and vision of the NMFA. He noted that the first NMFA employee hired was Dr. Pollard, currently employed with the LCS. According to Mr. Fulginiti, Dr. Pollard was instrumental in getting several of the NMFA's initial programs off the ground. Mr. Fulginiti said that since its inception, the NMFA has successfully served the lending needs of many entities throughout New Mexico, including providing more than \$600 million in loans to local governments. He added that the NMFA is the preferred funding source for all fire equipment acquisitions in the state. Mr. Fulginiti told the members that, in the years since its inception, the NMFA has become more diverse in its funding activities.

Mr. Fulginiti recalled for the committee members that the mission of the NMFA started out small and has grown in both size and diversity. Additionally, he said that the board continues to

examine whether the NMFA is still fulfilling its original mission, particularly regarding the public project revolving fund (PPRF), which, according to Mr. Fulginiti, is the NMFA's flagship program. He continued by saying that the original mission of the NMFA remains in full focus for board members and staff alike. He said they continue to ask what they can do to enhance programs and services both now and in the future. Mr. Fulginiti expressed confidence that the NMFA can be a financing mechanism that the governor and legislature can continue to depend upon. He noted that the NMFA is a triple-A accredited lender. Because there is no local government, not even Albuquerque, that has a triple-A rating, the NMFA is the premier entity providing huge savings for borrowers that benefit from lower lending costs that are a direct result of the NMFA's superior credit rating. Mr. Fulginiti emphasized the importance and value the board places on the NMFA's credit rating, noting that it significantly reduces the cost of doing business. He added that, in his opinion, it is critical for the NMFA to maintain its high credit rating. He also pointed out that the NMFA is unique from other similar organizations in other states because the NMFA has a guaranteed and dedicated revenue stream, which is the 5% governmental gross receipts tax. Mr. Fulginiti opined that the consistent and dedicated revenue stream is the single most significant reason that the NMFA achieved and maintains its high credit rating.

Next, Mr. Fulginiti told the members that the NMFA should always seek to provide more services, particularly at the state level. He said the board is considering implementing a more structured application process for both statewide and local projects. He emphasized that the NMFA needs more "teeth" at the local level, particularly with regard to planning grants. He noted that the NMFA staff can review proposed local projects and determine if they are technically correct. However, more resources are needed to ensure that the planning grants program remains in place and is accessible to the communities that really need the grants. He further added that small municipalities often need planning assistance early on in order to put their projects together.

Next, Secretary Martin spoke briefly to the members, recalling the water trust board meeting held on June 1, 2011. He told the committee members that the water trust fund program is an essential program that provides a huge benefit to local communities, not just large cities.

Mr. Gutierrez noted that, from the counties' perspectives, the NMFA is the bond bank for low-cost capital, adding that, if it were not for the lending programs offered by the NMFA, many of New Mexico's small counties could not otherwise borrow money. He concurred with Mr. Fulginiti, saying that the planning grants are critical for smaller municipalities and local governments. He confirmed that the NMFA board is considering implementing a uniform application process, and he opined that improvements to the application process would be beneficial.

Representative Lundstrom thanked the NMFA board members for their comments and participation. She noted that it is important for the NMFA oversight committee members to know who is behind the decisions being made on behalf of the NMFA. A number of members mentioned that the work of the NMFA has been invaluable to their respective local communities. Some members remarked that they would like to see local banks more involved and perhaps

better educated regarding the advantages of lending to many of the state's communities. Additionally, credit unions were mentioned as a great potential banking source.

Members inquired about the funding of state road projects. Rick Martinez, NMFA chief of client services, noted that, although the NMFA does not directly fund state road projects, it has been involved in about \$1.8 billion in road projects. He advised that local governments participated in those projects and the NMFA was able to lend the local governments the match money needed for them to access the funding.

### **NMFA General Update and Interim Session Goals**

John Duff, acting NMFA chief executive officer, introduced himself, as did Marquita Russel, chief of programs for the NMFA, and Mr. Martinez.

Mr. Duff began by telling the members that the NMFA board recognizes that the United States is experiencing very uncertain times, and consequently, the board is concerned about the NMFA's ability to maintain its strong bond rating and about the financial strength of the NMFA. He added that the board has been careful in managing expenditures, and that by refinancing various outstanding bond issues, the NMFA has saved millions in debt service fees. He told the members that in April 2011, the NMFA board learned that the Standard & Poor's rating agency increased the rating on the NMFA's PPRF senior lien bonds to "AAA", the rating agency's highest category. He said the high bond rating is the direct result of the efforts by the NMFA staff, as well as the board's long-standing goal of achieving the triple-A bond rating. He further noted that the new rating has already achieved tangible benefits such as the all-in total interest rate of 2.1% on the NMFA's most recent bond issue. The exceptionally low interest rate was passed on to NMFA borrowers. In its rating report, Standard & Poor's indicated that a primary reason for the upgrade in the PPRF rating was the NMFA's establishment of increased cash reserves to enhance the security of the PPRF bondholders.

According to Mr. Duff, Moody's, the other agency that rates the NMFA's PPRF senior lien bonds, reaffirmed its existing rating of Aa1 (the agency's second highest rating), while upgrading its rating on the subordinate lien bonds from Aa3 to Aa2. Mr. Duff also noted that New Mexico's new governor, Susana Martinez, said that the upgrade of the NMFA's bond ratings "...is an important part of putting New Mexico back on solid financial footing and helping our economy turn a corner...".

Mr. Duff discussed the NMFA's 2011 budget performance, noting that the NMFA staff is proud of the fact that in the current challenging economic environment, the NMFA has succeeded in managing its expenditures carefully. He said that the NMFA is expected to end the year with actual expenditures totaling approximately 10% less than the budget authorized by the board. One significant contributor to the savings was a reduction in outside legal fees achieved by the NMFA's legal department's multiyear project to streamline the legal processes necessary to issue bonds and make public sector loans.

Mr. Duff continued by telling the members that the NMFA issues bonds on behalf of the New Mexico department of transportation (DOT). To date, approximately \$1.35 billion in bonds

for new statewide infrastructure projects have been issued for the DOT, and an additional \$1 billion in refunding bonds have been issued to achieve cost savings. He added that the NMFA also advises the DOT regarding the management of its outstanding debt.

According to Mr. Duff, in August 2010, the NMFA identified an opportunity to save the DOT \$26.7 million in future debt service payments by refinancing \$470.3 million of its \$1.3 billion in then-outstanding transportation infrastructure fixed-rate bonds. In partnership with the DOT, the NMFA is constantly looking for new and innovative ways to save taxpayer dollars.

Mr. Duff told the members that in 2007, and in a highly competitive process, the NMFA was awarded an allocation of federal new markets tax credits totaling \$110 million. This was the first time that a New Mexico organization had received an allocation of these tax credits. The new markets tax credit is a federal program created to provide incentives to new, expanding or relocating businesses to locate in disadvantaged areas across the country. In 2011, the NMFA was the recipient of an additional allocation in the amount of \$46 million. Mr. Duff noted that the NMFA will use the additional allocation as an investment vehicle to support the creation of quality jobs at companies located in, or expanding to, the state's rural, disadvantaged communities and to projects located in distressed census tracts.

Regarding the FY 2012 budget, Mr. Duff said that the NMFA's 2012 budget for operating expenses will remain the same, in total, as the 2011 budget. The "flat" budget reflects management's forecast that total loan and grant volume will increase from a projected actual total of \$198 million for 2011 to \$339 million for 2012. In these challenging economic conditions, Mr. Duff opined that the NMFA must manage its operations to achieve the maximum possible efficiency. Accordingly, while amounts will shift somewhat among budget categories, the NMFA will operate in 2012 with no growth in the total expenditures authorized by its board for the preceding year. He added that he expects 2012 to be a year of no change from a budget perspective, and he believes it will be a year of significant improvement in the NMFA programs. He said the improvements in operations can be attained with no increase in total operating expenses from last year's budgeted level through operating more efficiently. Mr. Duff added that he expects 2012 to be a year of important growth for the NMFA. He advised the members that the NMFA's FY 2012 budget is presented in detail in the handout provided for the meeting.

Next, Mr. Duff advised the members that, due to the economic constraints facing the state during the creation of the 2011 and 2012 budgets, the legislature included no funding for any local capital outlay projects. Typically, the capital outlay grant funds, which have ranged from several hundred million dollars to as much as \$1 billion in the last five years, have been the largest component of statewide infrastructure funding. The disappearance of these funds has left the NMFA as the only major source of funding for infrastructure projects for New Mexico's cities, counties and even state government departments. He added that he believes this funding shortfall has created an exceptional opportunity and a related responsibility for the NMFA. As the funds are the only current source of infrastructure financing available for state government, it is incumbent upon the NMFA to do everything possible to maximize the funds available for critical infrastructure needs in New Mexico's communities. Accordingly, the NMFA staff has begun initiatives designed to address this challenge.

The NMFA wants to solve the "federal funds reversion" problem. This effort addresses the fact that multiple federal grant programs for infrastructure projects find it impossible to spend the funds allocated to the state and return many millions of dollars to the federal government each year. The principal reason that these funds revert to the federal treasury is the inability of communities to come up with the local matching funds required in almost all federal grant programs. Mr. Duff noted that the NMFA has begun to work with the federal funding agencies to better understand the requirements of their programs (and to help the agencies better understand the NMFA) so that existing NMFA programs can be modified or new programs can be designed to allow communities to match the federal grant funds. Success in this effort will make millions of dollars in additional funding available annually to New Mexico's communities.

Additionally, Mr. Duff stated that the NMFA would like to increase the PPRF capacity. The PPRF is the NMFA's primary infrastructure finance program, with an annual capacity to fund approximately \$200 million in new loans. That amount, while substantial, is not sufficient to bridge the gap created by the disappearance of the state's capital outlay budget. Accordingly, NMFA staff has begun an analysis of the program with the objective of identifying strategies to restructure the PPRF's bonding structure to increase capacity.

Next, Mr. Duff explained that the NMFA staff plans to work with others to develop new approaches, perhaps focusing on a new approach to state infrastructure financing. The NMFA will work with its partners in the executive and legislative branches to identify and implement new approaches to meeting the critical lending needs of New Mexico's communities.

Mr. Duff informed the members that the NMFA has identified several opportunities to increase efficiency and improve management controls and accountability in key areas of its operations. He noted that major opportunities identified include a project involving the SILO (system to integrate loan operations) project. NMFA staff began this project several months ago with a focus to improve the efficiency of and internal controls over its loan processing, closing and monitoring activities. The completion of the project is expected during FY 2012. The project has two major components:

- First is the creation of a new loan operations department. Previously, a majority of the procedures necessary to analyze a PPRF loan application was performed by financial advisors in the NMFA's client services department. Consolidating these activities in the loan operations department will allow the NMFA client services department personnel to spend more time in client service and outreach activities. The NMFA will also consolidate loan monitoring (surveillance of existing loans) in the new department. Mr. Duff noted that such a separation of functions is recommended by auditors as a "best practices" approach for financial services organizations.
- The second component is the implementation of software to automate the processing of loan applications. As the NMFA's PPRF loan volume has grown substantially in recent years, the NMFA has continued to rely on an almost completely manual system for analyzing and processing loan applications. The NMFA board is close to

a decision regarding the acquisition of new software or the modification of existing software that will permit important improvements in the efficiency and consistency of loan processing.

Next, Mr. Duff explained that legal fees are the largest single operating expense for the NMFA. Since the position of general counsel within the NMFA was created in 2007, one of the important duties charged to the NMFA legal department has been to reduce outside legal fees. Considerable progress has been made — specifically, an annual reduction in the costs of outside legal fees. In 2012, the NMFA will add an additional lawyer to its staff. This addition will bring the department's staffing to three lawyers, including the general counsel and one paralegal. The new lawyer will work primarily in the area of loan documentation, and adding the position will reduce outside legal fees by approximately \$200,000 above the new hire's salary.

In closing, Mr. Duff commented on the important focus that he believes economic development plays in the programs of the NMFA. He noted that the NMFA has several programs explicitly designed to enhance economic development, such as the new markets tax credits, as well as other programs created by the Statewide Economic Development Finance Act. He noted that the provisions of that act include bank loan participation, direct lending, loan guarantee programs and conduit bond issuance. He said that the NMFA is in the process of applying for \$14 million in federal state small business credit initiative funds, which will be used to expand the related programs.

Mr. Duff told the members that one aspect of the NMFA's programs that deserves more recognition as it relates to economic development impact is its flagship program, the PPRF. He added that although the PPRF is correctly thought of as a revolving infrastructure loan fund, the nearly \$2 billion in project financing already provided through the program has made possible the creation of many jobs, both construction jobs and permanent positions.

In closing, Mr. Duff expressed his gratitude at the opportunity to serve New Mexico as the chief executive officer of the NMFA.

A brief discussion regarding the criteria for the new markets tax credits program ensued with Mr. Duff explaining that median household income as measured by the United States census is used to determine eligibility. Ms. Russel added that the NMFA staff inputs a proposed project's street address into a database to determine eligibility. She noted that there is sometimes an area with pockets of eligible addresses, but all addresses in a particular area may not meet the criteria. She further noted that the database currently uses the information from the 2000 census. Ms. Russel mentioned that the Park Central hotel, located in downtown Albuquerque, qualified for the new markets tax credit.

Some committee members asked for more information regarding the NMFA's reduction in costs associated with outside legal fees. Mr. Duff explained that any outside counsel used by the NMFA is not used on a retainer basis. Rather, agreements with outside law firms are based on agreed-upon reduced rate legal fees billed at an hourly rate. Additionally, he clarified that outside legal resources are used on an "as needed" basis only.

## **2011 Legislative Summary**

Next, Mr. Duff was joined by Ms. Faust, assistant director for drafting services for the LCS, for a discussion regarding the 2011 legislative initiatives endorsed by the NMFA oversight committee. The members' attention was directed to the NMFA legislative recap 2011 handout, which outlined the committee-endorsed legislative proposals, including authorizations, appropriations and amendments to existing laws. Ms. Faust reminded the members that the committee endorsed 12 bills. She noted that eight of those bills were relevant to the NMFA and four were unrelated. Ms. Faust noted that Senate Bill 60, which was signed into law by the governor, allows the New Mexico renewable energy transmission authority to issue bonds at, above or below the par value. House Bill 24, a bill proposed by the border authority and signed into law by the governor, provides for the overweight operation of certain commercial vehicles entering New Mexico from Mexico within a six-mile radius of a New Mexico commercial border crossing.

Ms. Faust also explained that the legislation proposed by the motor transportation division of the department of public safety relating to the field enforcement inspection of commercial vehicles was passed and was signed into law. The new law provides the motor transportation police with the authority to conduct roadside inspections beyond the border areas that had previously been authorized.

Ms. Faust finally noted that the legislation proposed by Virgin Galactic and endorsed by the committee, which would have extended limited liability to manufacturers and suppliers providing services for the spaceport, did not pass. Members discussed the possible reasons that the legislation pertaining to the spaceport did not pass. After determining that the legislation has had difficulty getting past the judiciary committees during session, it was suggested that the legislation be recommended as an agenda item for the interim courts, corrections and justice committee so that members can become familiar with the bill prior to the legislative session.

NMFA staff recapped the 2011 legislation that related to the NMFA. The legislature passed three project authorization bills that authorized: projects for funding through the PPRF; statewide economic development loans; and water project funding. The legislation appropriated \$2 million from the PPRF to the drinking water state revolving loan fund and amended definitions for water project funding to increase eligibility for those funds. The bill to extend the sunset on the daily capital outlay tax passed, as did the bill to temporarily suspend the requirement for legislative approval of economic development projects under the Statewide Economic Development Finance Act.

## **Review and Discussion of Work Plan, Meeting Dates and Locations for 2011 Interim**

Ms. Faust led the members in a discussion regarding the committee's interim work plan. She relayed the determinations made by the New Mexico legislative council that interim committees must come up with ways to keep committee work-related costs down. She also explained that the proposed meeting dates were determined in an effort to minimize potential conflicts for voting members. After a discussion regarding travel, the chair asked Ms. Faust to seek authorization from the legislative council to permit the committee to travel for a meeting scheduled in October 2011. Next, Representative Lundstrom noted that the NMFA's interim

session goals should be added to the oversight committee's work plan. Lastly, Representative Lundstrom asked Ms. Faust to provide a list of the cities that the committee has traveled to in the past.

A motion was made and seconded to approve the work plan and schedule. The motion passed without objection. The members were advised that the NMFA would be hosting a lunch for committee members and staff immediately following the meeting. With no further business, the meeting adjourned at 1:10 p.m.